

HOUSE No. 1410

By Mr. Linsky of Natick, petition of David Paul Linsky and others for legislation to require gun dealers to deliver a sealed container containing projectiles and shells casing from firearms sold in the Commonwealth to the Executive Director of the Criminal History Systems Board. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

PETITION OF:

David Paul Linsky	James B . Leary
Tom Sannicandro	Matthew C. Patrick
Cynthia S. Creem	Karen E . Spilka
J. James . Marzilli, Jr.	Brian Paul Golden
Michael E. Festa	

In the Year Two Thousand and Five.

AN ACT TO IMPROVE THE TRACING OF GUNS USED IN CRIME.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 121 of Chapter 140 of the General Laws,
2 as appearing in the 2000 Official Edition, is hereby amended by
3 inserting after paragraph 12 the following:—
4 (ee) “Projectile” means that part of ammunition that is, by
5 means of an explosion, expelled through the barrel of the gun.
6 (ff) “Shell casing” means that part of ammunition that contains
7 the primer and propellant powder to discharge the projectile.

1 SECTION 2. Section 123 of Chapter 140 of the General Laws,
2 as so appearing, is hereby amended by inserting after clause
3 Twenty-first the following clause in line 230:—
4 Twenty-second, That on or after January 1, 2006, a licensee
5 shall, within ten days of delivering to a person a firearm or rifle
6 that is received by the licensee on or after such date, forward to
7 the Massachusetts State Police, for transactions of guns within

8 Massachusetts but outside of the Boston city limits, a sealed con-
9 tainer enclosing the projectile and shell casing from such firearm
10 or rifle as required by section 131Q either (a) as received from the
11 manufacturer or (b) obtained through participation in the program
12 operated by the department of state police in accordance with sub-
13 section three of section 131Q together with all reports required by
14 section one hundred and twenty three of this chapter. For transac-
15 tions of guns within the city limits of Boston the same requisite
16 information and materials shall be sent to the Boston Police
17 Department.

1 SECTION 3. Chapter 140 of the General Laws, as so
2 appearing, is hereby amended by inserting after section 131P the
3 following section:—

4 Section 131Q. (1) On or after January 1, 2006, any manufac-
5 turer or wholesaler of firearms or rifles that ships, transports or
6 delivers a firearm or rifle to any person in the commonwealth
7 shall, in accordance with rules and regulations promulgated by the
8 executive office of public safety, include in the container with
9 such firearm or rifle a separate sealed container that encloses:

10 (a) a projectile discharged from such firearm or rifle;
11 (b) a shell casing of a bullet or projectile discharged from such
12 firearm or rifle; and
13 (c) any additional information that identifies such firearm or
14 rifle, projectile and shell casing as required by such rules and reg-
15 ulations.

16 (2) A gunsmith or dealer in firearms licensed under section 122
17 shall, within ten days of the receipt of any firearm or rifle from a
18 manufacturer that fails to comply with the provisions of this
19 section, either:

20 (a) return such firearm or rifle to such manufacturer or whole-
21 saler, or

22 (b) notify the department of state police of such noncompliance
23 and thereafter obtain a substitute sealed container through partici-
24 pation in a program operated by the department as provided in
25 subsection three of this section.

26 (3) The executive office of public safety shall, no later than
27 October 1, 2004, promulgate rules and regulations for the opera-
28 tion of a program that provides a gunsmith or dealer in firearms

29 licensed under section 122 with a sealed container enclosing the
30 items specified in subsection two of this section. The program
31 shall, at a minimum:

32 (a) be operational by January 1, 2006;

33 (b) operate in at least three regional locations within the state;
34 and

35 (c) specify procedures by which such gunsmith or dealer in
36 firearms is to deliver a firearm or rifle to the regional program
37 located closest to his or her place of business for testing and
38 prompt return of such firearm or rifle.

39 (4) Upon receipt of a projectile and sealed container as required
40 by clause twenty-second of section 123, the State Police or Boston
41 Police Department shall cause to be entered in an automated elec-
42 tronic databank pertinent data and other ballistic information rele-
43 vant to the identification of the projectile and shell casing and to
44 the firearm or rifle from which they were discharged. The auto-
45 mated electronic databank shall be operated and maintained by the
46 State Police, in accordance with rules and regulations issued by
47 the executive office of public safety adopted after consultation
48 with the Federal Bureau of Investigation and the United State
49 Department of Treasury, Bureau of Alcohol, Tobacco and
50 Firearms to ensure compatibility with national ballistic tech-
51 nology.

52 (5) Any person, firm, or corporation who knowingly violates
53 any of the provisions of this section shall be punished, in the case
54 of a rifle or firearm that is not a large capacity weapon, by a fine
55 of not less than \$500 and not more than \$5000, or by imprison-
56 ment for not more than one year, or by both such fine and impris-
57 onment. Any person, firm, or corporation who knowingly violates
58 any of the provisions of this section shall be punished, in the case
59 of a rifle or firearm that is a large capacity weapon, by a fine of
60 not less than \$1000 and not more than \$10,000, or by imprison-
61 ment for not more than one year, or by both such fine and impris-
62 onment. Any person, firm, or corporation who knowingly violates
63 any of the provisions of this section after having been previously
64 convicted of a violation of this section shall be punished, in the
65 case of a rifle or firearm that is not a large capacity weapon, by a
66 fine of not less than \$1000 and not more than \$10,000, or by
67 imprisonment for not less than one year and not more than ten

68 years, or by both such fine and imprisonment. Any person, firm,
69 or corporation who knowingly violates any of the provisions of
70 this section after having been previously convicted of a violation
71 of this section shall be punished, in the case of a rifle or firearm
72 that is a large capacity weapon, by a fine of not less than \$5000
73 and not more than \$10,000, or by imprisonment for not less than
74 two and one half years and not more than ten years, or by both
75 such fine and imprisonment. The sentence imposed upon such
76 person shall not be reduced to less than one year for a second or
77 subsequent offense if the weapon is not a large capacity weapon,
78 nor less than two and one half years for a second or subsequent
79 such offense if the weapon is a large capacity weapon, nor sus-
80 pended, nor shall any person convicted under this subsection be
81 eligible for probation, parole, furlough, work release or receive
82 any deduction from his sentence for good conduct until he shall
83 have served such minimum term of such sentence; provided, how-
84 ever, that the commissioner of correction may, on the recommen-
85 dation of the warden, superintendent or other person in charge of a
86 correctional institution or the administrator of a county correc-
87 tional institution, grant to such offender a temporary release in the
88 custody of an officer of such institution for the following purposes
89 only: (i) to attend the funeral of a spouse or next of kin; (ii) to
90 visit a critically ill close relative or spouse; or (iii) to obtain emer-
91 gency medical services unavailable at such institution. Prosecu-
92 tions commenced under this subsection shall neither be continued
93 without a finding nor placed on file. The provisions of section 87
94 of chapter 276 relative to the power of the court to place certain
95 offenders on probation shall not apply to any person 17 years of
96 age or over charged with a violation of this subsection.